

Application No. 09/770,765
Amendment "E" dated February 6, 2006
Reply to Office Action mailed November 30, 2005

REMARKS

Applicants respectfully request reconsideration and allowance for the above-identified application. By this paper, claims 30-35, 37-39, 43-45, 47, 59, and 60 are pending, wherein claim 58 has been cancelled.

Initially, Applicants note with appreciation the Examiner's withdrawal of the previous grounds of rejection. Further, Applicants note with appreciation the Examiner's consideration of the documents submitted with the supplemental Information Disclosure Statements (IDSs) filed April 26th and September 2nd, 2005.

The Office Action rejects claim 58 under 35 U.S.C. § 112, second paragraph for allegedly failing to particularly point out and distinctly claim the subject matter which the applicant regards as his invention. In particular, the Office Action rejects claim 58 as having insufficient antecedent basis for the claim limitation of "the client identifier." In order to address the Examiner's concerns, Applicants have canceled claim 58 in this response. Accordingly, Applicants respectfully request withdrawal of this ground of rejection.

Next, the Office Action rejects independent claim 30 under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 6,044,396 to Adams ("*Adams*"), in view of U.S. Patent No. 5,996,015 to Day et al. ("*Day*"). The Office Action rejects the remaining dependent claims under 35 U.S.C. §103(a) as allegedly being unpatentable over various combinations of *Adams*, *Day*, U.S. Patent No. 6,215,904 to Lavalley ("*Lavalley*"), and U.S. Patent No. 6,243,388 to Mussman et al. ("*Mussman*").¹ Applicants respectfully traverse these grounds of rejections.

Applicants' invention, as recited for example in independent method claim 30 relates to bandwidth allocation for transmitting video on a cable network. The recited method includes: identifying compression parameters to be used to compress the data that is received from the plurality of data sources to a desired depth of compression, the selection of compression parameters being based on a function of types of data to be displayed and a function of client capabilities; associating the compression parameters with a set of values and threshold ranges for degrading image quality based on the types of data and a customer identifier; receiving the data

¹Although the prior art status of the cited art is not being challenged at this time, Applicants reserve the right to do so in the future. Accordingly, any arguments and amendments made herein should not be construed as acquiescing to any prior art status or asserted teachings of the cited art.

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from the plurality of data sources; differentially converting said data sources into compressed video streams, responsive to an instantaneous resource restriction and based at least in part on the types of data; and multiplexing said compressed video streams on a single transmission line.

Applicants respectfully submit that the combination of *Adams* and *Day* does not render the above claimed subject matter unpatentable for at least the reason that cited prior art does not disclose or suggest each and every element thereof.² For example, the combination of *Adams* and *Day*—taken either individually or as a whole—does not disclose or suggest the selection of compression parameters—for compressing data to a desired depth—based on a function of types of data to be displayed and a function of client capabilities; associating the compression parameters with a set of values and threshold ranges for degrading image quality based on the types of data and the client capabilities; and degrading the image quality based on the types of data and the client capabilities for differentially converting said data into compressed video streams responsive to an instantaneous resource restriction, as recited, *inter alia*, in claim 30.³

Adams discloses utilizing available bit rate in a constrained variable bit rate channel. *Adams* utilizes a standard encoder for outputting compressed data at a variable bit rate based on a threshold value for buffer fullness. As partially acknowledged by the Office Action, however, *Adams* does not disclose or suggest selecting compression parameters and degrading image quality based on a function of types of data to be displayed and the client capabilities for differentially converting the data into compressed video streams responsive to an instantaneous resource restriction. Recognizing some of the deficiencies of *Adams*, the Office Action cites *Day*.

Day discloses a system for selecting and delivering, in real-time, streamed compressed audio and video file content. *Day*, however, does not disclose or suggest selecting compression

² In order to establish a *prima facie* case of obviousness, "the prior art reference (or references when combined) must teach or suggest all the claim limitations." MPEP § 2143 (emphasis added). In addition, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. During examination, the pending claims are given their broadest reasonable interpretation, i.e., they are interpreted as broadly as their terms reasonably allow, consistent with the specification. MPEP §§ 2111 & 2111.01. MPEP § 2141.02 also states that the cited references must be considered as a whole, including those sections that "teach away" from the claimed invention. (Citation omitted).

³ Applicants respectfully note that although the following response focuses its arguments on only a portion of the elements or features within claim 30, Applicants do not necessarily agree that some of the other elements or features within claim 30 are disclosed or suggested within the cited references. Accordingly, any arguments made herein should not be construed as acquiescing to what any prior art reference may or may not disclose or suggest.

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parameters and degrading image quality based on a function of types of data to be displayed and the client capabilities for differentially converting the data into compressed video streams responsive to an instantaneous resource restriction. Nevertheless, the Office Action cites col. 5, l. 65 to col. 6, l. 25 of *Day* as allegedly disclosing portions of this feature. Applicants respectfully note that this cited section of *Day* relates to an initialization and communization process that is required in *Day* before selected multimedia files can be presented to a client. Although *Day* discloses adjusting an encoding rate for such files, *Day* does not disclose or suggest that such encoding is selected based on a function of the type of data. More specifically, although *Day* discloses audio and video multimedia types of data, *Day* is silent with respect to selecting an encoding rate or degrading image quality based on a function of any particular type of multimedia file. Rather, *Day* discloses adjusting encoding rates based on the capabilities of both the communication link and the display device.

In addition, assuming that *Day*'s encoding is comparable to Applicants' claimed differential conversion of data into compressed video streams, *Day* does not disclose or suggest degrading image quality for such encoding purposes. In stead (assuming that *Day*'s encoding affects image quality), *Day* at best discloses degrading image quality by adjusting encoding rates. Accordingly, *Day* cannot possibly disclose or suggest selecting compression parameters and degrading image quality based on a function of types of data to be displayed and the client capabilities for differentially converting the data into compressed video streams responsive to an instantaneous resource restriction, as recited, *inter alia*, in claim 30.

Based on at least the foregoing reasons, Applicants respectfully submit that the cited art fails to make obvious Applicants' invention as claimed, for example, in independent claim 30. Accordingly, Applicants respectfully request withdrawal of this ground of rejection.

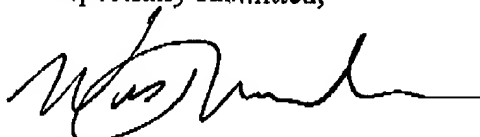
Applicants note for the record that the other rejections and assertions of record with respect to the independent and dependent claims are now moot, and therefore need not be addressed individually. Accordingly, Applicants do not acquiesce to any assertions in the Office Action that are not specifically addressed above, and hereby reserve the right to challenge those assertions in the future, including (but not limited to) any official notice taken by the Examiner, if necessary or desired.

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All objections and rejections having been addressed, it is respectfully submitted that the present application is in condition for allowance, and notice to this effect is earnestly solicited. Should any question arise in connection with this application or should the Examiner believe that a telephone conference with the undersigned would be helpful in resolving any remaining issues pertaining to this application, the undersigned respectfully requests that he be contacted at +1.801.533.9800.

Dated this 6th day of February, 2006.

Respectfully submitted,



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